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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Lionel Isaac Ruelas,
Plaintiff,

v.

Ryan Thornell, et al.,
Defendants.

No. CV-24-01808-PHX-JAT (DMF)

ORDER

Plaintiff Lionel Isaac Ruelas, who is confined in the Arizona State Prison Complex-Eyman, has filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983 (Doc. 1), an Application to Proceed In Forma Pauperis (Doc. 2), and a Motion for Appointment of Counsel (Doc. 4). The Court will grant the Application to Proceed, deny the Motion for Appointment of Counsel without prejudice, and dismiss the Complaint with leave to amend.

I. Application to Proceed In Forma Pauperis and Filing Fee

The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C. § 1915(b)(1). The Court will assess an initial partial filing fee of \$27.83. The remainder of the fee will be collected monthly in payments of 20% of the previous month's income credited to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C. § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government agency to collect and forward the fees according to the statutory formula.

II. Statutory Screening of Prisoner Complaints

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or an officer or an employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff has raised claims that are legally frivolous or malicious, that fail to state a claim upon which relief may be granted, or that seek monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1)–(2).

A pleading must contain a “short and plain statement of the claim *showing* that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does not demand detailed factual allegations, “it demands more than an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” *Id.*

“[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual allegations may be consistent with a constitutional claim, a court must assess whether there are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

But as the United States Court of Appeals for the Ninth Circuit has instructed, courts must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam)).

If the Court determines that a pleading could be cured by the allegation of other

1 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
 2 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). The
 3 Court will dismiss Plaintiff's Complaint for failure to state a claim, but because it may
 4 possibly be amended to state a claim, the Court will dismiss it with leave to amend.

5 **III. Complaint**

6 In his single-count Complaint, Plaintiff sues Arizona Department of Corrections,
 7 Rehabilitation and Reentry (ADCRR) Director Ryan Thornell, Nurse Practitioner Siji
 8 Thomas, Medical Grievance Coordinator Paul Shipley, and NaphCare Chief Medical
 9 Officer Jeffrey Alvarez, in their individual and official capacities. Plaintiff asserts a claim
 10 regarding his medical care. He seeks declaratory, injunctive, and monetary relief.

11 Plaintiff alleges the following:

12 Plaintiff suffers from vertigo, and to shower safely, he needs a shower chair. On
 13 January 5, 2024, Plaintiff was sent to the emergency room because he was experiencing
 14 extreme vertigo. On January 5, 2024, after Plaintiff was released from the emergency
 15 room, Defendant Thomas told Plaintiff that he would receive a shower chair and issued a
 16 special needs order (SNO) for the shower chair. When the shower chair did not arrive,
 17 Plaintiff "continued to make inquiries and requests to medical" for the shower chair. Each
 18 time, Defendant Thomas responded that the chair was ordered on January 5, 2024.

19 On January 26, 2024, Plaintiff fell in the shower, injuring his head and shoulder.
 20 Five days after the fall, during a follow-up appointment with CNA Hoover, Hoover told
 21 Plaintiff that Defendant Thomas had never ordered the shower chair. Defendant Thomas
 22 also failed to treat Plaintiff's new injuries, "pushing them off as though Plaintiff [faked]
 23 his illness."

24 Plaintiff contends that Defendant Thomas was deliberately indifferent by
 25 acknowledging that he has a serious medical need, "which only can be resolved by medical,
 26 but actively and knowingly ignored his medical needs," which placed him directly in
 27 harm's way and resulted in his fall in the shower. Plaintiff asserts his head and shoulder
 28 injuries "add[ed]to" his underlying conditions "and will become complicated if they

1 continue to remain untreated.” Plaintiff alleges that Defendant Thomas “has biases when
 2 it comes to incarcerated people,” which “drive her desire to cause harm to incarcerated
 3 people rather than treat[] their underlying conditions.”

4 Plaintiff apparently submitted a grievance asserting that Defendant Thomas had
 5 failed to order the shower chair. According to Plaintiff, Defendant Shipley’s response to
 6 Plaintiff’s grievance “was with the purpose to shift blame and responsibility onto ADCRR”
 7 by claiming that “medical does not have the capacity to provide shower chairs.” Plaintiff
 8 asserts that medical SNOs are prescriptions, prescriptions may only be generated and filled
 9 by medical, and because Defendant Thomas was Plaintiff’s primary provider, “this
 10 responsibility belong[ed] to her and th[e]n the doctors upon her recommendation.”
 11 Plaintiff alleges that Defendant Shipley “falsif[ied] his report by claiming it is left up to
 12 [ADCRR] to determine medical care,” when it was “within the scope of his office to resolve
 13 this issue at the earliest stage.”

14 Plaintiff alleges that Defendant Thornell’s “actions/inactions” amounted to
 15 deliberate indifference because Thornell failed to maintain oversight of medical
 16 professionals and the medical grievance coordinator, who “actively violate incarcerated
 17 persons[’] rights[] by denying medical care.”

18 Plaintiff alleges that Defendant Alvarez’s “actions/inactions are steeped in
 19 deliberate indifference for not abdicating [Defendant] Thomas[’]s employment as soon as
 20 [Alvarez] took office.” Plaintiff asserts that Defendant Alvarez “knew [Defendant
 21 Thomas’s] history of having legal actions brought against her due to her medical deliberate
 22 indifference, malpractice, negligence, etc.”

23 Plaintiff claims he suffered physical injury to his head and shoulder, “wanton” pain
 24 and suffering, and mental and emotional injury, including fear of a second fall, anger,
 25 anguish, anxiety, depression, insomnia, frustration, sadness, and stress.

26 **IV. Failure to State a Claim**

27 **A. Individual versus Official Capacity**

28 A suit against a defendant in his or her *individual* capacity seeks to impose personal

liability upon the official. *Kentucky v. Graham*, 473 U.S. 159, 165-66 (1985). For a person to be liable in his or her individual capacity, “[a] plaintiff must allege facts, not simply conclusions, that show that an individual was personally involved in the deprivation of his civil rights.” *Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir. 1998). By comparison, a suit against a defendant in his or her *official* capacity represents only another way of pleading an action against the entity that employs the defendant. *Kentucky*, 473 U.S. at 165. That is, the real party in interest is not the named defendant, but the entity that employs the defendant. *Id.* To bring a claim against an individual in his official capacity, a plaintiff must show that the constitutional deprivation resulted from the entity’s policy, custom, or practice. *Id.*; *Monell v. Dep’t of Soc. Servs.*, 436 U.S. 658, 694 (1978).

Although Plaintiff has named Defendants Thornell and Alvarez in their individual and official capacities, Plaintiff’s allegations fail to plausibly show that Defendants Thornell and Alvarez were personally involved in the deprivation of his civil rights but rather stem solely from their roles as the heads of the entities they oversee. Accordingly, the Court will construe Plaintiff’s claims as directed against Defendants Thornell and Alvarez in their official capacities only and will dismiss the individual-capacity claims against Defendants Thornell and Alvarez.

Plaintiff’s official-capacity claims against Defendants Thomas and Shipley are duplicative of the official-capacity claims against Defendants Thornell and Alvarez. The Court will therefore dismiss the official-capacity claim against Defendants Thomas and Shipley.

B. Defendants Thornell and Alvarez

As noted, the real party in interest for Plaintiff’s official-capacity claims against Defendants Thornell and Alvarez is the entity that employs them, that is, ADCRR and NaphCare, respectively. To state an official-capacity claim against Defendants Thornell and Alvarez, Plaintiff must allege facts to support that he suffered a constitutional injury because of a policy, custom, or practice of ADCRR and NaphCare. Plaintiff does not allege the existence of an ADCRR or NaphCare policy, custom, or practice that resulted in any

1 injury to him. Plaintiff fails to state an official-capacity claim against Defendants Thornell
2 and Alvarez, and these Defendants will be dismissed.

3 C. Defendant Thomas

4 Not every claim by a prisoner relating to inadequate medical treatment states a
5 violation of the Eighth Amendment. To state a § 1983 medical claim, a plaintiff must show
6 (1) a “serious medical need” by demonstrating that failure to treat the condition could result
7 in further significant injury or the unnecessary and wanton infliction of pain and (2) the
8 defendant’s response was deliberately indifferent. *Jett v. Penner*, 439 F.3d 1091, 1096 (9th
9 Cir. 2006).

10 “Deliberate indifference is a high legal standard.” *Toguchi v. Chung*, 391 F.3d
11 1051, 1060 (9th Cir. 2004). To act with deliberate indifference, a prison official must both
12 know of and disregard an excessive risk to inmate health; “the official must both be aware
13 of facts from which the inference could be drawn that a substantial risk of serious harm
14 exists, and he must also draw the inference.” *Farmer v. Brennan*, 511 U.S. 825, 837 (1994).
15 Deliberate indifference in the medical context may be shown by a purposeful act or failure
16 to respond to a prisoner’s pain or possible medical need and harm caused by the
17 indifference. *Jett*, 439 F.3d at 1096. Deliberate indifference may also be shown when a
18 prison official intentionally denies, delays, or interferes with medical treatment or by the
19 way prison doctors respond to the prisoner’s medical needs. *Estelle v. Gamble*, 429 U.S.
20 97, 104-05 (1976); *Jett*, 439 F.3d at 1096.

21 Deliberate indifference is a higher standard than negligence or lack of ordinary due
22 care for the prisoner’s safety. *Farmer*, 511 U.S. at 835. “Neither negligence nor gross
23 negligence will constitute deliberate indifference.” *Clement v. Cal. Dep’t of Corr.*, 220 F.
24 Supp. 2d 1098, 1105 (N.D. Cal. 2002); *see also Broughton v. Cutter Labs.*, 622 F.2d 458,
25 460 (9th Cir. 1980) (mere claims of “indifference,” “negligence,” or “medical malpractice”
26 do not support a claim under § 1983). “A difference of opinion does not amount to
27 deliberate indifference to [a plaintiff’s] serious medical needs.” *Sanchez v. Vild*, 891 F.2d
28 240, 242 (9th Cir. 1989). A mere delay in medical care, without more, is insufficient to

1 state a claim against prison officials for deliberate indifference. *See Shapley v. Nev. Bd. of*
 2 *State Prison Comm'rs*, 766 F.2d 404, 407 (9th Cir. 1985). The indifference must be
 3 substantial. The action must rise to a level of “unnecessary and wanton infliction of pain.”
 4 *Estelle*, 429 U.S. at 105.

5 Plaintiff’s allegations are too vague to state an Eighth Amendment claim against
 6 Defendant Thomas. Plaintiff alleges that on January 5, 2024, Defendant Thomas told him
 7 that she would order a shower chair and that she entered a SNO for the shower chair, but
 8 after he fell in the shower on January 26, 2024, a CNA told him that Thomas never ordered
 9 the shower chair. Plaintiff asserts that he made various inquiries about the shower chair,
 10 and each time, Defendant Thomas responded that the chair had been ordered on January 5.
 11 Plaintiff provides no factual detail concerning any of his inquiries, nor does he describe in
 12 sufficient detail what transpired during the appointment with CNA Hoover. Absent
 13 additional information, the Court cannot determine whether Defendant Thomas
 14 *purposefully* failed to respond to Plaintiff’s medical need or *intentionally* denied, delayed,
 15 or interfered with Plaintiff’s medical treatment by failing to order the shower chair.
 16 Plaintiff’s speculation about Defendant Thomas’s “biases” does not support a deliberate
 17 indifference claim. The Court will therefore dismiss Defendant Thomas.

18 **D. Defendant Shipley**

19 Although not entirely clear, Plaintiff’s claim against Defendant Shipley appears to
 20 be based solely on Shipley’s response to Plaintiff’s grievance concerning Defendant
 21 Thomas’s failure to order the shower chair. Prisoners have a First Amendment right to file
 22 prison grievances, *Rhodes v. Robinson*, 408 F.3d 559, 567 (9th Cir. 2005), but prisoners do
 23 not have ““a separate constitutional entitlement to a specific prison grievance procedure,”
 24 *Ramirez v. Galaza*, 334 F.3d 850, 860 (9th Cir. 2003) (citing *Mann v. Adams*, 855 F.2d
 25 639, 640 (9th Cir. 1988)). Accordingly, prisoners cannot bring due process challenges to
 26 the processing of their grievances. *See Ramirez*, 334 F.3d at 860; *see also McRoy v. Roe*,
 27 509 F. App’x 660, 660 (9th Cir. 2013) (affirming dismissal of claims “arising from
 28 defendants’ processing of and response to his grievances because prisoners do not have a

1 ‘constitutional entitlement to a specific prison grievance procedure’”) (quoting *Ramirez*,
2 334 F.3d at 860).

3 Plaintiff alleges that Defendant Shipley “falsif[ied] his report,” but he alleges no
4 facts to support that Shipley was in any way involved in Plaintiff’s medical care other than
5 responding to Plaintiff’s grievance. Plaintiff cannot state a claim against Defendant
6 Shipley based solely on his response to Plaintiff’s grievance. Plaintiff fails to state a claim
7 against Defendant Shipley, and this Defendant will be dismissed.

8 **V. Leave to Amend**

9 For the foregoing reasons, the Court will dismiss Plaintiff’s Complaint for failure to
10 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
11 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
12 mail Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff
13 fails to use the court-approved form, the Court may strike the amended complaint and
14 dismiss this action without further notice to Plaintiff.

15 Plaintiff must clearly designate on the face of the document that it is the “First
16 Amended Complaint.” The first amended complaint must be retyped or rewritten in its
17 entirety on the court-approved form and may not incorporate any part of the original
18 Complaint by reference. Plaintiff may include only one claim per count.

19 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
20 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d
21 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat the original Complaint
22 as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the
23 original Complaint and that was voluntarily dismissed or was dismissed without prejudice
24 is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693
25 F.3d 896, 928 (9th Cir. 2012) (en banc).

26 If Plaintiff files an amended complaint, he must write short, plain statements telling
27 the Court: (1) the constitutional right Plaintiff believes was violated; (2) the name of the
28 Defendant who violated the right; (3) exactly what that Defendant did or failed to do;

(4) how the action or inaction of that Defendant is connected to the violation of Plaintiff's constitutional right; and (5) what specific injury Plaintiff suffered because of that Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

Plaintiff must repeat this process for each person he names as a Defendant. If Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for failure to state a claim. **Conclusory allegations that a Defendant or group of Defendants has violated a constitutional right are not acceptable and will be dismissed.**

VI. Motion to Appoint Counsel

In his Motion to Appoint Counsel, Plaintiff asks the Court to appoint counsel to represent him in this case because he has language and comprehension barriers, he suffered a head injury that causes confusion at times, and he has never filed a lawsuit or studied the law, all of which will "greatly prejudice" him. Plaintiff asserts that without an attorney to represent him, "the fundamental fairness doctrine and equal protection under the law would be in jeopardy of having no standing, as [his] execution of any legal action without an attorney would be unavailing."

There is no constitutional right to counsel in a civil case. *See Turner v. Rogers*, 564 U.S. 431, 441 (2011) ("[T]he Sixth Amendment does not govern civil cases."); *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009). Although 28 U.S.C. § 1915(e)(1) grants the Court limited discretion to "request" that an attorney represent an indigent civil litigant, *Agyeman v. Corr. Corp. of Am.*, 390 F.3d 1101, 1103 (9th Cir. 2004), this discretion may be exercised only under "exceptional circumstances." *Id.*; *see also Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

A finding of exceptional circumstances requires the Court "to consider whether there is a 'likelihood of success on the merits' and whether 'the prisoner is unable to articulate his claims in light of the complexity of the legal issues involved.'" *Harrington v. Scribner*, 785 F.3d 1299, 1309 (9th Cir. 2015) (quoting *Palmer*, 560 F.3d at 970). These

1 considerations “must be viewed together,” and neither is dispositive. *Palmer*, 560 F.3d at
2 970.

3 Having considered both elements, it does not appear at this time that exceptional
4 circumstances are present that would require the appointment of counsel in this case.
5 Plaintiff is in no different position than many pro se prisoner litigants, and a plaintiff’s
6 assertion that he would fare better with the assistance of counsel is insufficient to
7 demonstrate exceptional circumstances. *See Rand v. Rowland*, 113 F.3d 1520, 1525 (9th
8 Cir. 1997) (“any pro se litigant certainly would be better served with the assistance of
9 counsel”), *withdrawn in part on reh’g en banc and overruled on other grounds*, 154 F.3d
10 952 (9th Cir. 1998). Thus, the Court will deny without prejudice Plaintiff’s Motion to
11 Appoint Counsel.

12 **VII. Warnings**

13 **A. Release**

14 If Plaintiff is released while this case remains pending, and the filing fee has not
15 been paid in full, Plaintiff must, within 30 days of his release, either (1) notify the Court
16 that he intends to pay the unpaid balance of his filing fee within 120 days of his release or
17 (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may
18 result in dismissal of this action.

19 **B. Address Changes**

20 Plaintiff must file and serve a notice of a change of address in accordance with Rule
21 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
22 relief with a notice of change of address. Failure to comply may result in dismissal of this
23 action.

24 **C. Possible “Strike”**

25 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff
26 fails to file an amended complaint correcting the deficiencies identified in this Order, the
27 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).
28 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil

1 judgment in forma pauperis under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior
 2 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
 3 court of the United States that was dismissed on the grounds that it is frivolous, malicious,
 4 or fails to state a claim upon which relief may be granted, unless the prisoner is under
 5 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

6 **D. Possible Dismissal**

7 If Plaintiff fails to timely comply with every provision of this Order, including these
 8 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
 9 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
 10 the Court).

11 **IT IS ORDERED:**

12 (1) Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 2) is **granted**.

13 (2) As required by the accompanying Order to the appropriate government
 14 agency, Plaintiff must pay the \$350.00 filing fee and is assessed an initial partial filing fee
 15 of \$27.83.

16 (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff
 17 has **30 days** from the date this Order is filed to file a first amended complaint in compliance
 18 with this Order.

19 (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of
 20 Court must, without further notice, enter a judgment of dismissal of this action with
 21 prejudice that states that the dismissal may count as a “strike” under 28 U.S.C. § 1915(g)
 22 and deny any pending unrelated motions as moot.

23 (5) Plaintiff’s Motion to Appoint Counsel (Doc. 4) is **denied without prejudice**.

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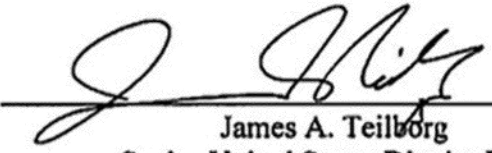
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1 (6) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
2 rights complaint by a prisoner.

3 Dated this 9th day of September, 2024.

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8 James A. Teilborg
9 Senior United States District Judge
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**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. Who May Use This Form. The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. The Form. **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. Your Signature. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. The Filing and Administrative Fees. The total fees for this action are \$455.00 (\$350.00 filing fee plus \$55.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. Original and Judge’s Copy. You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. Where to File. You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Unless you are an inmate housed at an Arizona Department of Corrections facility that participates in electronic filing, mail the original and one copy of the complaint with the \$455 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
U.S. District Court Clerk
U.S. Courthouse, Suite 130
401 West Washington Street, SPC 10
Phoenix, Arizona 85003-2119

OR

Tucson Division:
U.S. District Court Clerk
U.S. Courthouse, Suite 1500
405 West Congress Street
Tucson, Arizona 85701-5010

7. Change of Address. You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. Certificate of Service. You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
this _____ (month, day, year) to:

Name: _____

Address: _____

Attorney for Defendant(s)

(Signature)

9. Amended Complaint. If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. Exhibits. You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. Letters and Motions. It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. Counts. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. Issue Involved. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked “Other,” you must identify the specific issue involved.
3. Supporting Facts. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. Injury. State precisely how you were injured by the alleged violation of your rights.
5. Administrative Remedies. You must exhaust any available administrative remedies before you file a civil rights complaint. *See* 42 U.S.C. § 1997e. Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. _____
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- ☐ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☐ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983

☐ 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).

☐ Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____. The first Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as: _____ at _____.
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as: _____ at _____.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☐ No
2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

COUNT II

1. State the constitutional or other federal civil right that was violated: _____.

 2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____.	

 3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

 4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

 5. **Administrative Remedies.**
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
 - b. Did you submit a request for administrative relief on Count II? ☐ Yes ☐ No
 - c. Did you appeal your request for relief on Count II to the highest level? ☐ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____.

COUNT III

1. State the constitutional or other federal civil right that was violated: _____.
2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.
☐ Basic necessities ☐ Mail ☐ Access to the court ☐ Medical care
☐ Disciplinary proceedings ☐ Property ☐ Exercise of religion ☐ Retaliation
☐ Excessive force by an officer ☐ Threat to safety ☐ Other: _____.
3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

_____.
4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

_____.
5. **Administrative Remedies.**
- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☐ Yes ☐ No
- b. Did you submit a request for administrative relief on Count III? ☐ Yes ☐ No
- c. Did you appeal your request for relief on Count III to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.